

NEW HAMPSHIRE LAW LIBRARY

1953

SEP 03 1998

Aug. 17

CONCORD, N.H.

Edw. W. Salmon, Chairman  
John J. Thompson and  
P. J. [unclear]  
High School Board  
Manchester, New Hampshire

Sir:

Reference is made to your letter of August 7, 1953 in which you point out that your District completed the fiscal year just past with a cash surplus; that the Board has voted to reserve a portion of this surplus for renovation of a heating system; and that the State Tax Commission questions the Board's authority to make such reservation, contending that all of such surplus should be used to reduce the amount to be raised by taxation in the current fiscal year. You ask our opinion in the matter.

It appears to me clear that the statute relating to the establishment of capital reserve funds (Rev. 1943, c. 160, ss. 1-3), contains the only authorization which surplus funds may be reserved and set aside. A capital reserve fund may be established only by vote of the district (Rev. 1943, c. 160, s. 1); and it may be established by Rev. 1943, c. 6, s. 3; surplus funds may be paid into it only by vote of the district pursuant to a proper article in the warrant (Rev. 1943, c. 160 s. 4).

Unless, then, a capital reserve fund has been established, unencumbered cash balances must be brought forward into the succeeding fiscal year and used as a credit against the appropriations for that year.

Very truly yours,

Warren H. Waters  
Assistant Attorney General